

COPY
ORIGINAL
FILED
2010 NOV -3 P 3:33
E-filing
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Todd M. Friedman (216752)
Darin Shaw (251037)
Law Offices of Todd M. Friedman, P.C.
369 S. Doheny Dr. #415
Beverly Hills, CA 90211
Phone: 877 206-4741
Fax: 866 633-0228
tfriedman@attorneysforconsumers.com
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DMR

DAVID BAXTER,

Case No. 4981

Plaintiff,

vs.

BRIDGEPORT FINANCIAL, INC.,

Defendant.

) **COMPLAINT FOR VIOLATION**
) **OF FEDERAL FAIR DEBT**
) **COLLECTION PRACTICES ACT,**
) **ROSENTHAL FAIR DEBT**
) **COLLECTION PRACTICES ACT,**
) **AND INVASION OF PRIVACY**

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for

1 invasion of privacy arising from intrusion upon seclusion and public disclosure of
2 private facts.
3

4 **II. JURISDICTION**

5 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d).
6

7 **III. PARTIES**

8 3. Plaintiff, David Baxter ("Plaintiff"), is a natural person residing in
9 San Francisco County in the state of California, and is a "consumer" as defined
10 by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ
11 Code §1788.2(h).
12

13
14 4. At all relevant times herein, Defendant, Bridgeport Financial, Inc.
15 ("Defendant") was a company engaged, by use of the mails and telephone, in the
16 business of collecting a debt from Plaintiff which qualifies as a "debt," as defined
17 by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code
18 §1788.2(f). Defendant regularly attempts to collect debts alleged to be due
19 another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C.
20 §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).
21
22

23 **IV. FACTUAL ALLEGATIONS**

24
25 5. At various and multiple times prior to the filing of the instant
26 complaint, including within the one year preceding the filing of this complaint,
27 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
28

1 6. On average, Plaintiff received from Defendant, more than two
2 collections calls per day, more than ten collections calls per week, and more than
3 twenty collections calls per month.
4

5 7. On more than one occasion, Defendant has threatened a garnishment
6 of Plaintiff's wages for non-payment of an alleged debt, including but not limited
7 to phone calls threatening wage garnishment and a letter threatening that
8 Defendant would contact Plaintiff's employer.
9
10

11 8. On more than one occasion, Defendant has contact Plaintiff's
12 mother, a third party to this action, for purposes beyond obtaining location
13 information.
14

15 9. On more than one occasion, Defendant has disclosed personal
16 information to Plaintiff's mother, a third party to this action, without said
17 information being expressly requested.
18

19 10. Defendant's conduct violated the FDCPA and the RFDCPA in
20 multiple ways, including but not limited to:
21

- 22 a) Falsely representing that a legal proceeding has been, is about to be,
23 or will be instituted unless payment of a consumer debt is made (Cal
24 Civ Code §1788.13(j));
- 25 b) Placing (a) telephone call(s) to Plaintiff without disclosure of the
26 caller's true identity or a registered alias name along with the name
27 of the agency authorizing the call (Cal Civ Code §1788.11(b));
- 28 c) Causing a telephone to ring repeatedly or continuously to annoy
Plaintiff (Cal Civ Code §1788.11(d));

- d) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code §1788.11(e));
- e) In connection with an attempt to collect an alleged debt from Plaintiff, contacting a third party for purposes other than obtaining location information (§1692b & §1692c(b));
- f) In connection with an attempt to collect an alleged debt from Plaintiff, providing the identity of Defendant to a third party without such information being expressly requested (§1692b(1) & §1692c(b));
- g) Disclosing to a third party the existence of the debt allegedly owed by Plaintiff (§1692b(2) & §1692c(b));
- h) Communicating with a single third party more than once in connection with an attempt to collect an alleged debt from Plaintiff (§1692b(3) & §1692c(b));
- i) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1));
- j) Falsely representing or implying that nonpayment of Plaintiff's debt would result in the seizure, garnishment, attachment, or sale of Plaintiff's property or wages, where such action is not lawful or Defendant did not intend to take such action (§1692e(4)); and
- k) Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken (§1692e(5)).

11. Defendant's aforementioned violations of the FDCPA and RFDCPA also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.

12. Defendant's aforementioned disclosure of facts regarding Plaintiff's debt to third parties constitutes a public disclosure of a private fact not of

1 legitimate public concern. Defendant's disclosures were highly offensive to a
2 reasonable person.
3

4 13. As a result of the above violations of the FDCPA, RFDCPA and
5 invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff's
6 feelings, personal humiliation, embarrassment, mental anguish and emotional
7 distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages,
8 statutory damages, and costs and attorney's fees.
9
10

11 **COUNT I: VIOLATION OF FAIR DEBT**
12 **COLLECTION PRACTICES ACT**

13 14. Plaintiff reincorporates by reference all of the preceding paragraphs.
14

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff respectfully prays that judgment be entered
17 against the Defendant for the following:
18

- 19 A. Declaratory judgment that Defendant's conduct
20 violated the FDCPA;
21 B. Actual damages;
22 C. Statutory damages;
23 D. Costs and reasonable attorney's fees; and,
24 E. For such other and further relief as may be just and proper.
25

26 **COUNT II: VIOLATION OF ROSENTHAL**
27 **FAIR DEBT COLLECTION PRACTICES ACT**

28 15. Plaintiff reincorporates by reference all of the preceding paragraphs.

1 16. To the extent that Defendant's actions, counted above, violated the
2 RFDCPA, those actions were done knowingly and willfully
3

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays that judgment be entered
6
7 against the Defendant for the following:

- 8 A. Declaratory judgment that Defendant's conduct
9 violated the RFDCPA;
10 B. Actual damages;
11 C. Statutory damages for willful and negligent violations;
12 D. Costs and reasonable attorney's fees,
13 E. For such other and further relief as may be just and proper.

14 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**
15 **AND INVASION OF PRIVACY BY PUBLICATION OF PRIVATE FACTS**

16 17. Plaintiff reincorporates by reference all of the preceding paragraphs.
17

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff respectfully prays that judgment be entered
20
21 against the Defendant for the following:

- 22 A. Actual damages
23 B. Punitive Damages; and,
24 C. For such other and further relief as may be just and proper.
25


26
27 ///

28 ///

///

1 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

2
3
4 Respectfully submitted this 29th day of October, 2010.

5
6
7 By: 
8 **TODD M. FRIEDMAN (216752)**
9 **LAW OFFICES OF TODD M.**
10 **FRIEDMAN, P.C.**
11 **369 S. Doheny Dr. #415**
12 **Beverly Hills, CA 90211**
13 **Phone: 877 206-4741**
14 **Fax: 866 633-0228**
15 **tfriedman@attorneysforconsumers.com**
16 **Attorney for Plaintiff**